

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE NEW YORK TIMES COMPANY,

Plaintiff,

v.

MICROSOFT CORPORATION, OPENAI,
INC., OPENAI LP, OPENAI GP, LLC,
OPENAI, LLC, OPENAI OPCO LLC,
OPENAI GLOBAL LLC, OAI
CORPORATION, LLC, and OPENAI
HOLDINGS, LLC,

Defendants.

Civil Action No. 1:23-cv-11195 (SHS) (OTW)

Daily News, LP; Chicago Tribune Company,
LLC; Orlando Sentinel Communications
Company, LLC; Sun-Sentinel Company,
LLC; San Jose Mercury News, LLC; DP
Media Network, LLC; ORB Publishing,
LLC; and Northwest Publications, LLC

Plaintiffs,

v.

MICROSOFT CORPORATION, et al.,

Defendants.

Civil Action No. 1:24-cv-3285 (SHS) (OTW)

DECLARATION OF JENNY L. COLGATE

I, Jenny L. Colgate, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a Partner at Rothwell, Figg, Ernst & Manbeck, P.C., which represents Plaintiff Daily News, L.P., et al. (“Daily News Plaintiffs”) in this case. I submit this declaration on behalf of Daily News Plaintiffs in support of the News Plaintiffs’ response to Defendants’ motion to

consolidate this case with the *Center for Investigative Reporting* case pending before this Court. See *Center for Investigative Reporting v. OpenAI, Inc.*, Case 24-cv-04872; Dkt. 256.

2. The parties began negotiating a protocol for Plaintiffs' inspection of OpenAI's training data in May 2024, and did not reach agreement on the Stipulated Training Data Inspection Protocol until October 3, 2024. Dkt. 253. Plaintiffs were permitted to begin their inspection of OpenAI's training data on October 16, 2024.

3. The parties began negotiating a source code review protocol in July 2024 and did not reach agreement on the Stipulated Source Code Order until September 26, 2024. Dkt. 247.

4. Daily News Plaintiffs sent a first draft of a protective order to Defendants on June 24, 2024. Notwithstanding that this first draft was modeled after the protective order already entered in The Times case, negotiations on the protective order were not complete, and the stipulated protective order was not filed with the Court, until August 20, 2024. Dkt. 129.

5. To date, OpenAI has served 792 discovery requests on Daily News Plaintiffs, comprising 648 requests for production (52 RFPs directed to collective set of plaintiffs, 79 additional RFPs directed to each of four plaintiffs, and 70 RFPs directed to each of the other four plaintiffs), 64 interrogatories (8 per each plaintiff), and 80 requests for admission (10 per each plaintiff). Microsoft has served 576 discovery requests on Daily News Plaintiffs, comprising 488 requests for production (63 RFPs directed to each of four plaintiffs and 59 RFPs directed to each of the other four plaintiffs) and 88 interrogatories (11 per each plaintiff).

6. I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 18th day of October, 2024.

/s/ Jenny L. Colgate
Jenny L. Colgate